S.L. v Archdiocese of N.Y.
2026 NY Slip Op 31245(U)
March 24, 2026
Supreme Court, New York County
Docket Number: Index No. 950241/2021
Judge: Sabrina Kraus
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. SABRINA KRAUS PART CVA 1

Justice

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S.L.,

Plaintiff,

- v -

ARCHDIOCESE OF NEW YORK, SAINT JAMES CATHOLIC CHURCH, SISTERS OF ST. JOHN THE BAPTIST AMERICAN PROVINCE

Defendants.

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INDEX NO. 950241/2021

MOTION DATE 01/09/2026

MOTION SEQ. NO. 005

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 005) 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89

were read on this motion to/for JUDGMENT - SUMMARY.

BACKGROUND

Plaintiff in this CVA allegations sues for sexual abuse he alleges was perpetrated on him by two nuns when he was a student in the 7th grade. Plaintiff makes the following allegations in the complaint.

During the 1966-1967 school year, when Plaintiff was a 7th grade student at St. James, Catholic nuns, Sister Augustine and Sister Edwards sexually abused Plaintiff on multiple occasions on the premises of St. James. Sister Augustine sexually abused Plaintiff on 60 or more instances in a classroom on the fourth floor of St. James. Specifically, Sister Augustine masturbated Plaintiff's penis to ejaculation, performed oral copulation on Plaintiff's penis to ejaculation, and masturbated herself in a St. James classroom. Sister Edwards sexually abused Plaintiff on numerous instances. Specifically, Sister Edwards grabbed and yanked Plaintiff's bare penis with her hand in a St. James classroom during class. During the ongoing sexual abuse,

Plaintiff and Plaintiff's mother reported the sexual abuse to St. James' Principal, and Archdiocesan nun, Mother Lucille Verga. Notwithstanding the multiple reports, the Archdiocese failed to investigate or remove Sisters Augustine and Edwards from St. James. As a result, Sisters Augustine and Edwards continued to sexually abuse Plaintiff.

DISCUSSION

Summary judgment is a drastic remedy that should be granted only if no triable issues of fact exist, and the movant is entitled to judgment as a matter of law. *Alvarez v. Prospect Hosp*., 68 N.Y.2d 320, 324 (1986). To establish entitlement to summary judgment, the moving party is required to "make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any material issues of fact from the case." *Winegrad v. New York Univ. Med. Ctr*., 64 N.Y.2d 851 (1985). Only if the moving party satisfies this burden does the burden shift to the nonmoving party "to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action." *Alvarez v. Prospect Hospital* 68 N.Y.2d 320, 324 (1986).

The Court must view the evidence "in a light most favorable to the party opposing the motion, giving [that party] the benefit of every favorable inference." *International Rescue Committee v. Reliance Insurance Co*., 230 A.D.2d 641 (1st Dep't 1996).

A plaintiff bringing a negligence action must allege "a duty owed to the plaintiff by the defendant, a breach of that duty, and injury proximately resulting therefrom" (*Moore Charitable Found. v PJT Partners, Inc.*, 40 NY3d 150, 157 [2023] [*Moore*], citing *Pasternack v Laboratory Corp. of Am. Holdings*, 27 NY3d 817, 825 [2016]; *Solomon v City of New York*, 66 NY2d 1026, 1027 [1985]; *Akins v Glens Falls City School Dist.*, 53 NY2d 325, 333 [1981]).

It is well settled that a defendants' burden cannot be satisfied merely by pointing to gaps in the plaintiff's proof, and that movants herein are required to affirmatively demonstrate the merit of an alleged defense. *In re New York City Asbestos Litigation (Carriero),* 174 A.D.3d 461 (1st Dept. 2019); *CM v West Babylon Union Free School District* 231 AD3d 809 (2nd Dept., 2024); *Doe v Orange-Ulster Bd. Of Coop. Educ. Servs.* 4 AD3d 387, 388-89 (2nd Dept., 2004).

In the following cases the Appellate Division, reversed the trial court's award of summary judgment and dismissal of claims regarding sexual abuse of a student, because defendants had not established an entitlement to judgment as a matter of law and questions regarding constructive notice and adequacy of supervision were questions of fact for the jury: *Sayegh v City of Yonkers* 228 AD2d 690 (2024)(*defendants failed to establish prima facie that they lacked constructive notice and failed to demonstrate their supervision of the teacher and plaintiff was not negligent*); *Stanton v Longwood Central School District* 233 AD3d 1010 (2024); *CM v West Babylon Union Free School District* 231 AD3d 809 (2024); *MCVAWCD-DOE v Columbus Avenue Elementary School* 225 AD3d 845 (2024); *Kastel v Patchogue-Medford Union Free School District* 234 AD3d 741(2025); *Sallustio v Southern Westchester Board Cooperative Educational Services* 235 AD3d 680 (2025); *Brauner v Locust Valley Central School District* 234 AD3d 914 (2025).

In this case, viewing the evidence in the light most favorable to the Plaintiff, there is evidence from which a jury could determine that the Archdiocese either knew or should have known that the Sisters were acting inappropriately with Plaintiff.

As to actual notice, there was the complaint of Plaintiff and his mother to the School Principal.

As to constructive notice Plaintiff testified that Sister Augustine issued him detention on a regular basis, directed him to see the principal, Mother Lucille Verga, on the first floor, and then assigned him to serve detention in a classroom on the fourth floor of the school. He testified that the abuse occurred on the fourth floor in his classroom, in isolation, because all other students had been dismissed. Plaintiff further testified that Sister Augustine would lock both doors to the classroom before the abuse occurred. The frequency of the abuse combined with the inappropriate behavior of a nun locking a child in a classroom with the nun alone, could be determined by a trier of fact to constitute constructive notice.

Given all of the above the Court finds that movant has failed to make a *prima facie* showing that it is entitled to judgment as a matter of law. Movant has failed to establish that it lacked actual and/or constructive notice, or that it properly supervised the Sisters and Plaintiff during the school day. Movant entirely relies on what it perceives to be gaps in Plaintiff's proof at trial.

Additionally, the Court finds it surprising that The Archdiocese argues it owed Plaintiff no duty of care, when their own witness, Sister Anastasio testified that the Pastor of a parochial school has final say over the employment of teacher, and the Archbishop of New York has the ultimate authority over religious education within the ecclesiastical bounds of the Archdiocese of New York. Sister Anastasio stated that the safety of students attending parochial schools within the geographical bounds of the Archdiocese was the highest priority of the Archdiocese of New York.

The Department of Education of the Archdiocese of New York had policies that the schools within its boundaries were required to follow. The evidence in the record supports the claim that the Board of Education for the Archdiocese supervises and directs what happens in its

parochial schools, much the same way as the Board of Education for public schools is responsible for oversight of individual schools.

> A school or school district "owes a duty to adequately supervise the students in its care, and may be held liable for foreseeable injuries proximately related to the absence of adequate supervision" (*Fernandez v. City of Yonkers,* 139 A.D.3d 895, 896, 31 N.Y.S.3d 595 [internal quotation marks omitted]; *see Doe v. Rohan,* 17 A.D.3d 509, 511, 793 N.Y.S.2d 170). "The standard for determining whether the school has breached its duty is to compare the school's supervision and protection to that of a parent of ordinary prudence placed in the same situation and armed with the same information" (*Wienclaw v. East Islip Union Free Sch. Dist.,* 192 A.D.3d 945, 946, 144 N.Y.S.3d 106 [internal quotation marks omitted])

MCVAWCD-DOE v. Columbus Ave. Elementary Sch., 225 A.D.3d 845, 847, 207 N.Y.S.3d 669, 671 (2024)

Therefore, the Archdiocese had an obligation to protect Plaintiff in the Schools it governed. There is also evidence from which a trier of fact could find that the Archdiocese did have custody and control over Plaintiff as it was in charge of overseeing the School.

"It is well settled that a principal-agent relationship exists where one retains a degree of direction and control over another." *Garcia v. Herald Tribune Fresh Air Fund, Inc*., 51 A.D.2d 897 (1st Dep't 1976). The question of whether there is a "sufficient degree of direction and control" for an agency relationship is generally a question for the jury. *Id.* Specifically, unless the defendant can produce an agreement which definitively establishes the scope of the alleged agency, then the issue of control cannot be resolved summarily as a matter of law. *Id*. (*absent proof of written authority of the agent has, questions of agency are issues of fact to be submitted to the jury*).

The Archdiocese failed to submit any written agreement between it and the School and Church setting forth the scope of its agency with the church or school. The fact that entities – such as the Archdiocese on one hand, and the church and school on the other – are separately

organized or incorporated does not by itself support an inference that one entity does not control the other, nor would it preclude an agency relationship between the entities. *See Time Warner City Cable*, 27 A.D.3d at 553 (*lower court erred in finding that status of entities as independent contractors precluded a finding of agency*).

The issue of control is factually intensive. A jury could find that the relevant evidence shows the Archdiocese's plenary control of the School's principal in virtually every aspect of her position of authority as the highest-ranking official assigned to the School.

The deposition testimony of Sister Patricia Anastasio, the associate superintendent for teacher personnel, confirms that the Pastor of the School, as representative of the Archbishop at Archdiocesan schools, supervised and controlled the School and its personnel. "The -- the pastor was canonically in charge of that school and he had full responsibility for whoever worked in his parish… He's appointed by the Archbishop." Archdiocese's Exhibit G, pg. 35, 37. Because the Pastor acted as an agent of the Archdiocese, subject to the Archdiocese's control, notice to the Pastor and/or employees of the School of a danger to children in the School is notice to the Archdiocese. Generally, a prospective school principal in a Catholic diocesan school within the Archdiocese must apply to the Archdiocese for the position and be approved by the Archdiocese. Exh. 1, pp. 12-14 ["[y]ou have to be approved by the [Archdiocese's] Department of Education before you can be a named principal"]).

Moreover, Sister Swanton, when asked about the Sisters of St. John's policies and procedures regarding the sexual abuse of minors, testified that "we follow the guidelines of the Archdiocese of New York. That's our policy." Archdiocese's Exh. H, p. 21-22 (emphasis added).

Reports of abuse of school students must be communicated to the Archdiocese's regional school superintendent. Plaintiff's Exhibit 1, pp. 22-23. The Archdiocese requires that the school principal remove the accused staff member and conduct an investigation. The Archdiocese requires its approval before a Roman Catholic School can hire a principal, requires the School follow the Archdiocese's policies and procedures, including concerning the prevention, reporting, and investigation of the sexual abuse of children, and does not allow for deviations from those policies and procedures.

Moreover, the funding of parochial schools within the Archdiocese are not necessarily self-sustaining.

Finally, the Archdiocese argues that it is not responsible for the Sisters' conduct because they were not acting in furtherance of their employment.

> "Although an employer cannot be held vicariously liable for torts committed by an employee who is acting solely for personal motives unrelated to the furtherance of the employer's business, the employer may still be held liable under theories of negligent hiring, retention, and supervision of the employee" (*Johansmeyer v. New York City Dept. of Educ.,* 165 A.D.3d 634, 635, 85 N.Y.S.3d 562 [citations and internal quotation marks omitted]). "To establish a cause of action based on negligent hiring, negligent retention, or negligent supervision, it must be shown that the employer knew or should have known of the employee's propensity for the conduct which caused the injury" (*Shor v. Touch–N–Go Farms, Inc.,* 89 A.D.3d 830, 831, 933 N.Y.S.2d 686; *see Fuller v. Family Servs. of Westchester, Inc.,* 209 A.D.3d 983, 984, 177 N.Y.S.3d 141)."The employer's negligence lies in having placed the employee in a position to cause foreseeable harm, harm which would most probably have been spared the injured party had the employer taken reasonable care in making decisions respecting the hiring[,] ... retention[, or supervision] of the employee" (*D.T. v. Sports & Arts in Schs. Found., Inc.,* 193 A.D.3d 1096, 1097, 147 N.Y.S.3d 622 [internal quotation marks omitted]; *see Johansmeyer v. New York City Dept. of Educ.,* 165 A.D.3d at 635–637, 85 N.Y.S.3d 562).

MCVAWCD-DOE v. Columbus Ave. Elementary Sch., 225 A.D.3d 845, 846–47 (2nd Dept., 2024).

Thus, the Court rejects movant's argument that Plaintiff's claim is based on vicarious liability.

CONCLUSION

Accordingly, it is hereby:

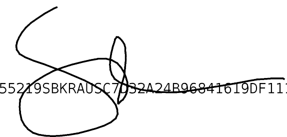
ORDERED that the motion is denied in its entirety; and it is further

ORDERED that, within twenty (20) days from entry of this order, Plaintiff shall serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office (60 Centre Street, Room 119, New York, NY 10007); and it is further

ORDERED that such service upon the Clerk shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that the parties appear for a virtual pretrial conference on April 28, 2026, at 1:30 pm, when a final trial date will be set.

This constitutes the decision and order of the Court.



3/24/2026					SABRINA KRAUS, J.S.C.
DATE					
CHECK ONE:	[ ] CASE DISPOSED		[X] NON-FINAL DISPOSITION		
	[ ] GRANTED	[X] DENIED	[ ] GRANTED IN PART		[ ] OTHER
APPLICATION:	[ ] SETTLE ORDER		[ ] SUBMIT ORDER		
CHECK IF APPROPRIATE:	[ ] INCLUDES TRANSFER/REASSIGN		[ ] FIDUCIARY APPOINTMENT		[ ] REFERENCE